

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

MICHAEL HADLEY and SONIA)
HADLEY,)
Plaintiffs,)
v.) CAUSE NO. 3:05-CV-31 AS
WAL-MART STORES, INC.,)
Defendant.)

REPORT AND RECOMMENDATION

On December 9, 2004, Plaintiffs filed their complaint in the Elkhart County Superior Court and on January 14, 2005, Defendant removed the action to this Court. On June 27, 2005, Plaintiffs' counsel filed a motion to withdraw his appearance, which this Court granted on June 29, 2005. Plaintiffs were given sixty days to obtain new counsel. Apparently, Plaintiffs did not obtain new counsel as no one entered their appearance on behalf of Plaintiffs. Consequently, on September 9, 2005, this Court ordered Plaintiffs to file a statement with this Court by September 23, 2005, indicating whether they wished to proceed *pro se* or if they had obtained new counsel. This Court warned Plaintiffs that failure to abide by this order may result in a dismissal of their case.

On September 23, 2005, Plaintiffs filed a motion for an extension of time to find new counsel. This Court granted Plaintiffs' motion on September 30, 2005, and gave Plaintiffs until October 31, 2005, to file their statement with this Court. Despite the extension of time, Plaintiffs failed to file their statement. Consequently, on November 8, 2005, this Court issued an order to show cause ordering Plaintiffs to show cause as to why this case should not be dismissed for their failure to comply with this Court's orders. This Court afforded Plaintiffs until November

25, 2005, to show cause and again advised Plaintiffs that failure to respond would result in a dismissal of their case.

Under Fed. R. Civ. P. 41, a plaintiff's case may be dismissed for his failure to prosecute his claim or to comply with court orders. Plaintiffs have failed to comply with two court orders, and have provided no written documentation explaining their inaction. Therefore, because Plaintiffs have failed to prosecute their case and have violated two court orders, this Court **RECOMMENDS** that Plaintiffs' case be **DISMISSED WITHOUT PREJUDICE**.

NOTICE IS HEREBY GIVEN that within ten (10) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed.R.Civ.P. 72(b). FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.

SO ORDERED.

Dated this 6th Day of December, 2005.

s/Christopher A. Nuechterlein
Christopher A. Nuechterlein
United States Magistrate Judge